

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

165
FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

SEP 28 2009

DENISE JENNINGS, JEROME EASTERLING &
DENISE JENNINGS as the legal guardian of the infant
J [REDACTED] Y [REDACTED]

Civil Action

BROOKLYN OFFICE

Plaintiffs,

v.

NEW YORK CITY POLICE OFFICER STEPHEN
MINUCCI, NEW YORK CITY POLICE OFFICERS
1-10, and the CITY OF NEW YORK,

Defendants.

09
COMPLAINT and
JURY DEMAND

4171

Plaintiffs DENISE JENNINGS, JEROME EASTERLING & DENISE JENNINGS as the
legal guardian of the infant [REDACTED] through their attorneys, the Erlanger Law Firm
PLLC, allege as and for a Complaint against defendants:

PARTIES, SUBJECT MATTER JURISDICTION, and VENUE

1. Plaintiffs are citizens of the United States and reside in Kings County.
2. Defendant City of New York ("NYC") is a municipality of the State of New York.
3. Non-party New York Police Department ("NYPD") is an NYC agency.
4. Defendant NYC Police Officers Stephen Minucci (Shield No. 7979) and 1-10 are employees of NYC and at all times were acting within the scope of their duties as police officers.
5. Jurisdiction arises under 42 U.S.C. §1983 with pendent jurisdiction over plaintiffs' state-law based claims.
6. Venue arises in this district under 28 U.S.C. §1331.
7. More than 30 days have elapsed since service of the Notice of Claim and adjustment or payment thereof has been neglected or refused.
8. This action has been commenced within one year and 90 days following the

occurrence of the event upon which plaintiff's claims are based.

FACTUAL BACKGROUND

9. At around 6:00 a.m. on Thursday, May 14, 2009, defendant Police Officers ("defendants") busted into plaintiffs' residence at 183 Rochester Avenue, Apt. 4C, Brooklyn, New York 11213 ("the Apartment") by drilling out the locks in the front door.

10. Plaintiff Denise Jennings was in the shower. Ms. Jennings's son, plaintiffs Jerome Easterling, and their cousin and his girlfriend were asleep in a bedroom. And Ms. Jennings younger son [REDACTED] was asleep in the living room.

11. One defendant male officer, with a fire arm pointed at Ms. Jeninngs, stared at her in the nude for an extended period of time while other officers rousted the other apartment occupants from their sleep.

12. Mr. Y [REDACTED] was placed face down on the living room floor with a firearm pointed at his head.

13. Defendants claimed that they were looking for illegal drugs and firearms.

14. When asked to produce a warrant, defendants repeatedly responded that it "is on the table." No warrant was ever seen on the table or elsewhere in the apartment. Upon information and belief, defendants' invasion and search of the Apartment was warrantless.

15. Ms. Jennings, Mr. Easterling and their cousin and cousin's girlfriend, were handcuffed, subjected to physical search, detained and then brought to the 77th Precinct where Mr. Easterling, his cousin and cousin's girlfriend were strangely charged with three counts of illegal marihuana possession, a violation under New York Penal Law 221.05 punishable by a \$100 fine, and Ms. Jennings was charged with one count of illegal marihuana possession under

the same statute.

16. Mr. Y [REDACTED] was handcuffed, subjected to physical search, detained and brought to the 77th Precinct but was released after six hours and sent home on his own.

17. Ms. Jennings, Mr. Easterling, and their cousin and his girlfriend, were processed at the 77th Precinct, transported to Kings County central booking and eventually arraigned and released, at about 12 midnight on Friday, May 15, about 42 hours after the initial custodial arrests.

18. While plaintiffs were out of the apartment, the defendants continued their search, ransacking the apartment in the process, in a fruitless attempt to find guns and drugs that might have otherwise provided probable cause for plaintiffs' continued detention.

19. Further proceedings against plaintiffs were adjourned in contemplation of dismissal.

FIRST CLAIM FOR RELIEF
(42 USC §1983, Deprivation of Rights)

20. Plaintiffs repeat and reallege each and every allegation of Paragraphs 1 through 19 as if more fully set forth herein.

21. Defendant NYPD detectives and police officers deprived plaintiff of their rights, guaranteed under the 4th Amendment to the Constitution of the United States, not to be subjected to an illegal search and seizure and deprived of their liberty for an excessive length of time.

22. Defendants entered plaintiffs apartment without a warrant, probable cause or arguable probable cause that a crime was being or had been committed.

23. Defendants also extended plaintiffs' detention and imprisonment without due

process solely for the purpose of ransacking their apartment to establish the grounds for illegally entering their apartment.

24. During the course of their illegal search of plaintiffs apartment, defendants maliciously and recklessly destroyed plaintiffs' personal property.

25. Ms. Jennings and Mr. Easterling where detained for an excessive period of time, which time exceeded by almost twice the Criminal Court of the City of New York, New York County's guideline for arraigning criminal defendants within 24 hours of their arrest.

26. At all times alleged, defendant NYPD police officers were acting under the color of law, in they were acting in the performance of their official duties while employed by NYPD, including exercising their official powers as police officers.

27. Defendant NYPD police officers acted recklessly, wilfully, wantonly or maliciously, and without good faith, toward plaintiffs.

28. By reason of the foregoing, plaintiffs have been damaged in such amounts as may be proved at trial, including physical and emotional/psychological injuries, and property damage.

29. Plaintiffs are also entitled to punitive damages.

SECOND CLAIM FOR RELIEF
(False Imprisonment)

30. Plaintiffs repeat and reallege each and every allegation of Paragraphs 1 through 29 as if more fully set forth at length herein.

31. Defendants entered plaintiffs apartment without a warrant, probable cause or arguable probable cause that a crime was being or had been committed.

32. Defendants also extended plaintiffs' detention and imprisonment without due process solely for the purpose of ransacking their apartment to establish the grounds for illegally

entering their apartment.

33. Plaintiffs were conscious of their confinement and it was against each plaintiff's will.

34. Plaintiffs' arrest and confinement was not otherwise privileged and excessive.

35. By reason of the foregoing, plaintiffs have been damaged in such amounts as may be proved at trial, including physical and emotional/psychological injuries, and property damage. Plaintiffs are also entitled to punitive damages.

THIRD CLAIM FOR RELIEF

(Conduct Causing Severe Emotional Distress)

36. Plaintiffs repeat and reallege each and every allegation of Paragraphs 1 through 35 as if more fully set forth at length herein.

37. Defendant police officer's pointing a long-barreled fire arm at Ms. Jennings and staring at her for a very prolonged period of time while she was standing naked in the shower was so outrageous and shocking as to exceed the reasonable bounds of decency as measured by what could be tolerated by an average member of the community.

38. Defendant police officer's conduct breached a duty to plaintiff under the circumstances or was intentional, or was undertaken knowingly, with substantial certainty that plaintiff would suffer severe emotional distress, or was reckless because it was done in such manner and under such circumstances as to show utter disregard for the consequences that would follow.

39. Defendant police officer acted negligently, recklessly, wilfully, wantonly and/or maliciously, and without good faith, toward Mr. Jennings.

40. Ms. Jennings emotional distress was of such intensity and duration that no

reasonable person could have been expected to endure it.

41. By reason of the foregoing, Ms. Jennings has been emotionally and psychologically damaged in such amounts as may be proved at trial. She is also entitled to punitive damages.

FOURTH CLAIM FOR RELIEF
(Negligent Failure to Supervise, New York City)

42. Plaintiffs repeat and reallege each and every allegation of Paragraphs 1 through 41 as if more fully set forth at length herein.

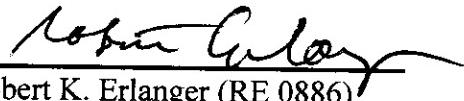
43. Defendant City had a policy and/or sanctioned police officers breaking into private citizens' homes without probable cause and/or failed to train and supervise its police officers not to break into private citizens' homes without probable cause.

44. By maintaining and/or sanctioning the aforementioned police conduct and/or failing to train and supervise its police officers, the City on this and other occasions has acted with deliberate indifference in disregarding the risk that its police officers would act unconstitutionally toward residents of the City.

45. By reason of the foregoing, plaintiffs have been damaged in such amounts as may be proved at trial, including physical and emotional/psychological injuries

WHEREFORE plaintiffs demand judgment against defendants as to the following: (1) compensation for physical and emotional/psychological injuries; (2) compensation for plaintiffs' personal property destroyed or rendered inoperative and unusable; (3) punitive damages arising from defendant police officers' reckless, willful, wantonly and/or maliciously conduct undertaken without good faith; (4) attorneys' fees and costs; and (5) such other and further relief as the Court deems just and proper.

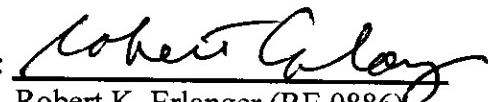
ERLANGER LAW FIRM PLLC
Attorneys for Plaintiffs

By: 
Robert K. Erlanger (RE 0886)

Dated: September 25, 2009

JURY DEMAND

Plaintiffs hereby demand trial by jury.

By: 
Robert K. Erlanger (RE 0886)

Dated: September 25, 2009